

United States District Court

District of Massachusetts

FILED
CLERK'S OFFICE

Albert Rainer, petitioner

JUL 11 P 3:17

v

Civil Action #05-10592 EFH

Comm of Massachusetts, Respondent

TRaverse in Response To;
Respondents motion to Dismiss

Respondents first Allege that this petition for writ of Habeas Corpus has been dismissed pursuant to Rules 12(b)(1) and 12(b)(6) because petitioner has failed to exhaust the procedures available to him in State Court to pursue the claims he raises here. Petitioner alleges that the time for filing such procedures has long since passed, However, this courts Jurisdiction can be found in 28 U.S.C. 2254 Part VI Chapter 153 Section(d)(1) and (2) An application for a writ of Habeas Corpus on behalf of a person in custody pursuant to the judgement of a State Court shall not be granted with respect to any claim that was adjudicated on the merits in State Court proceedings unless the adjudication of the claim . . .

- (1) Resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
- (2) Resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in State Court proceeding.

Petitioner desires a Review of Paper #7 petitioners pre-JS McCortley motion filed at 1:50:56 ~~the~~ the facts ascertained in the Grand Jury Minutes, That the material facts were not adequately developed at the State Court hearing. . . that the petitioner did not receive a full, fair and adequate hearing in the State Court proceeding. . . That the petitioner was otherwise denied due process of law in the State Court proceeding.

Petitioner asserts that when an unknown or unnamed person (Secur: ground) is the basis for police action, the two pronged standard of Aguilar-Spinelli are the first standard to be met. Aguilar v TEXAS 378 U.S. 108, 84 L. Ed. 1509, 122 Ed. 2d 723 (1964) And Spinelli v United States 373 U.S. 410 89 S. Ct 584, 21 L. Ed. 2d 637 (1969) made applicable to this Commonwealth then. Com v Leptan 394 Mass 363 373-378, 476 N.E.2d 548, 553-558 (1985) See Grand Jury minutes pg 6 lines 20-24.

Petitioner Responds to the ~~Exhausted~~ State Remedies and States . . . How can the Commonwealth refuse to hear a petitioner's motion to proceed pro-se; pro-se motion for writ of habeas corpus; pro-se motion for private investigation; and pro-se motion to Dismiss, papers Number 6789 on the docket sheet filed on 6-8-00 and then accused petitioner of not exhausting available remedies . . . Especially in light of the fact that this petitioner has been denied access to the Court by whatever scheme or mechanism as well as refused a Colleague to represent himself.

Petitioner asserts access to the Court is a Basic Federal and State Constitutional Right as is the right to represent oneself. Petitioner has been denied these Basic Rights.

In regards to foot note #1 in Respondent's Show Cause Response to the application for writ. The Respondent's allege that Paper #7 was taken under advisement and that paper #11 was denied the same day. . . Petitioner admits that it appears that paper #11 was denied the same day however papers #6, 7, 8, 9 were never considered by the Judge on 10-14-2004 see exhibit A. In exhibit A . . . On page 2 lines 19-21 District Attorney Hickman admits to the Judge that there is . . . one issue Judge. . . That issue is that there were two McGowky issues filed and a habeas was not issued actually unto today's date. Here the District Attorney Hickman is admitting to not affording due process to the petitioner.

But more importantly, . . . In Exhibit A page 10 petitioner defendant attempt to address the Court and is Silenced By the Court. Pg¹⁰ starting at line 4 of Exhibit A.

Clear the only motion that the Court and Judge heard or Considered was the McCarthy motion with the ~~two~~ memoranda which is paper #11 filed By attorney Santini Not paper #7 filed pro-se without a memoranda, on page #11 of Exhibit A line 11 then if the Court stated that it wasnt going to take it right now . . .

AND . . . The only thing I had on the docket today was this matter And that's all that I'm resolving. The Judge clearly defined what he was considering and which McCarthy motion he ruled on . . . (Exhibit A pg 11 lines 21 then pg 12 - line 1) In Petitioner's motion he Contest the entire Complaint by way of Lack of probable Cause. One McCarthy motion Request the Judge to Outright dismiss the case, the other McCarthy motion ask the Judge to Reduce. Exhibit A Lines 6 to 8 pg 12 . . .

Therefore Petitioner files for a writ of habeas Corpus where the prosecution had denied petitioner access to the Court on one hand And then on the other hand assumes to denied Petitioner access to ~~the~~ Federal Relief by guise of failure to exhaust procedures available. Petitioner is without Remedy.

Exhaustion Requirement in habeas Corpus cases is not jurisdictional, and would be excused, where petition warranted. Sua Sponte dismissal because facially without merit and to withhold an ordering for lack of exhaustion would be idle formality. *Rowell v Oestee* C.A. 5 (Fla.) 1980 626 F.2d 437

Preiser v Rodriguez U.S. Sup. 1973 93 S.Ct 1827, 411 U.S. 475, 36 L.Ed. 2d 439 . . . Where he is imprisoned prior to trial on account of defective indictment

Review of habeas Corpus petition is matter of Court discretion. *Reese v Delaware State Hospital* D.C. Del 1980, 490 F.Supp 177.

Habeas petitioners failure to develop claim in state court proceeding will be excused and hearing mandated if he can show that fundamental miscarriage of justice would result from failure to hold federal evidentiary hearing. *Keene v Tamm*, 360 U.S. 496, 1959, 112 S. Ct. 1715, 564 U.S. 1118 L. Ed. 2d 318 on Remand 969 F.2d 859

Wherefore Petitioner prays an immediate hearing is held to resolve the facts, when counsel is appointed as a defendant lose the right to free an open access to the court, to proceed pro-se and/or lose all substantive rights.

... Federal Court has the largest power to control and direct the form of judgment to be entered in cases brought up before it on habeas Corpus; thus a district court may exercise its broad authority in habeas cases to grant any relief it deems necessary, including the permanent discharge of a successful habeas petitioner. *Brogg v Norris* 8 D. Ark. 200, 128 F. Supp. 2d 587 Habeas Corpus 724.

This petitioner prays an evidentiary hearing and/or any relief this court deems available for lack of probable cause in the case & alternatively to resolve the factual issues in dispute.

Albert Rouni #040575
200 Ashmun Street
Boston, Mass 02114

United States District Court
Office of the Clerk

Albert RAINES, Petitioner

vs

Comm of Massachusetts, Respondent

FILED
CLERK'S OFFICE

JUL 11 P 3:16

Civil Action No. 05-10592-EFH

Certificate of Service

I, Albert RAINES, petitioner, do swear by the pains and penalty of law, a true and correct copy of the within pleadings, (Tentative) and Exhibits have been mailed by regular mail this day to: David M. Lieber Asst. Attorney General, Criminal Bureau, One Ashburton Place, Boston, Mass 02108

Attest

July 8th 2005

Albert RAINES

Albert RAINES # 0400578

200 Ashburton Street

Boston, Mass. 02114

Exhibit A

Exhibit A

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT

* * * * *

THE COMMONWEALTH OF MASSACHUSETTS	*	NO. SUCR2004-10100
	*	
v.	*	
	*	
ALBERT RAINES	*	14 OCTOBER 2004
	*	

* * * * *

MOTION HEARING
BEFORE THE HONORABLE CHRISTOPHER MUSE
TRANSCRIPT OF PROCEEDINGS

APPEARANCES FOR:

The Commonwealth: JENNIFER HICKMAN
Assistant District Attorney
One Bulfinch Place
Boston MA 02114

The Defendant: FRANK J. SANTISI
Attorney At Law
727 High Street
Westwood, MA 02090

P R O C E E D I N G S

[First call as to Commonwealth versus Albert Raines.]

THE COURT: Is Mr. Santisi here?

MS. HICKMAN: No, your Honor. He was expecting to be here about 11:00 or so. He said he knew the defendant was coming in either from Concord or Souza Baranowski and that he would not be here.

THE COURT: It's an evidentiary motion to dismiss?

MS. HICKMAN: It's a McCarthy motion, your Honor.

THE COURT: It's a McCarthy. Have you filed an opposition to it?

MS. HICKMAN: It should be in the court papers. I filed it a couple of dates ago, Commonwealth's response to it, and Attorney Santisi has it as well.

THE COURT: All right. Why don't you separate that so I can look at the papers.

MS. HICKMAN: One issue judge. It was on the other day and Mr. Raines was not brought in. I'm told that a habe actually issued on today's date?

THE COURT: Let me look at the paperwork during the break.

MS. HICKMAN: Okay. Thank you.

1 THE COURT: And tell Mr. Santisi too.

2 MS. HICKMAN: [Responding to the court officer]
3 Albert Raines?

4 THE COURT OFFICER: He's here.

5 THE CLERK: We put him on the jail list; he
6 should be here.

7 THE COURT OFFICER: He's here. Albert Raines
8 is here.

9 MS. HICKMAN: Okay. Thank you.

10 THE CLERK: Further call on 35.

11 [Second call as to Commonwealth versus Albert Raines.]

12 THE CLERK: Albert Raines, number 34 on today's
13 list; Albert Raines in the courtroom.

14 THE COURT: Can you give me the memorandum I
15 saw before? I had it up on my desk earlier.

16 THE CLERK: Everything is still up there,
17 judge.

18 THE COURT: Okay. All right. Mr. Santisi, you
19 say that the grand jury did not hear enough evidence?

20 MR. SANTISI: I say with respect to so much of
21 the indictments, judge, the charged second offense --

22 MS. HICKMAN: What?

23 MR. SANTISI: I'm sorry. So much of the
24 indictments that charge intent to distribute.

1 THE COURT: Intent?

2 MS. HICKMAN: Yes.

3 MR. SANTISI: That's correct.

4 THE COURT: Let me just get all the paperwork
5 together. I have the Commonwealth's opposition and grand
6 jury minutes. When we called the case earlier today we
7 had a memorandum.

8 [Addressing the clerk] Do you know where it
9 is? With the motion?

10 MR. SANTISI: Judge, I can give the court --

11 THE COURT: Well, let me your extra copy. I'll
12 get it back to you; how's that? I know I started to; in
13 fact, I was reviewing it.

14 All right. I'll hear from you again. You're
15 directing my attention to the -- of facts that support
16 distribution, and you indicated that there's simply no
17 evidence as a matter of law that the defendant intended
18 to distribute the cocaine in the napkin which he placed
19 on the desk in front him.

20 MR. SANTISI: Judge, as a preliminary matter,
21 the grand jury must hear evidence that the defendant
22 probably intended to distribute drugs, and it's got to be
23 shown with specific facts in the grand jury minutes. The
24 evidence in this case indicates that my client who was at

1 the Saint Francis Homeless Shelter was sitting at a
2 table. At some point a woman -- a table or desk
3 -- a woman approached him and gave him some money. He
4 then took out his wallet and put the money into his
5 wallet in plain view, put the wallet back into his
6 pocket. The woman apparently, in a fair reading of the
7 grand jury minutes, was still in the area. At this point
8 the defendant put a napkin to his mouth and put the
9 napkin which contained about three-quarters of a gram of
10 cocaine on the table or desk or surface in front of him.

11 There's no indication that he pushed it towards
12 the woman, that he had conversation with the woman about
13 here are your drugs or things of that nature. At about
14 the same time when the defendant made this motion with
15 the drugs from his mouth, which I submit are equally
16 consistent with simple possession, a security guard from
17 the area walked in. The defendant then took this napkin
18 which covered and hid this
19 three-quarter gram of cocaine substance and put it on the
20 floor.

21 Those are the facts, period. There are no
22 other facts indicating that this defendant was involved
23 in handing drugs to another person or intended to hand
24 drugs to another person. In the customary case, judge,

1 the Commonwealth proves an intent to distribute by a
2 large quantity of drugs or other indicia which simply
3 don't exist here.

4 Had my client made any motion to push the drugs
5 towards this woman or engaged in conversation that was
6 overheard by any person who testified before the grand
7 jury that in fact, here are your drugs or words of that
8 nature, I wouldn't be before the court arguing this
9 point. That's the simple basis of the argument, judge,
10 in a nutshell.

11 THE COURT: Okay. What does the Commonwealth
12 say?

13 MS. HICKMAN: Your Honor, Commonwealth would
14 argue that the grand jury did hear sufficient evidence
15 for the indictment. There's a little bit more to the
16 facts, and I'm sure as the court reads the memorandum as
17 well as the grand jury minutes -- the officer involved
18 who made observations was an officer who had been in a
19 drug control unit for a number of years, had made over
20 300 arrests, was familiar with crack cocaine and how
21 crack cocaine is distributed as well as stored for
22 distribution.

23 When the officer is at the shelter doing a
24 detail an employee approached him and informed him that

1 someone in the atrium was selling drugs. The officer
2 went to an area above the atrium and had a clear line of
3 sight of the defendant who was sitting on a bench who was
4 beneath him. During this observation of the defendant
5 the officer observed a number of individuals approaching
6 the defendant having conversations and then departing.

7 The facts of what make up the indictment part
8 of it, your Honor, is that a white female did approach
9 the defendant, there was a conversation. The female
10 handed U.S. currency to the defendant who took it out of
11 his[sic] wallet, put the money in his wallet. At that
12 time he placed a napkin to his mouth and spit an object
13 into it.

14 Contrary to what my brother said it wasn't --

15 THE COURT: Hold it. So he took something from
16 his mouth and spit it into the napkin?

17 MS. HICKMAN: Correct.

18 THE COURT: This is the important part of it,
19 isn't' it?

20 MS. HICKMAN: I would say it --

21 THE COURT: What does he do with the napkin?

22 MS. HICKMAN: What he does with it is he places
23 it on the ground. In the process of him spitting it out
24 and it appeared we would argue ready to hand it to the

1 female, a shelter employee happened to walk into the
2 atrium and the defendant immediately set the item down on
3 the ground. The woman leaves and he made no indication
4 of putting it into his pocket. It's an item he spits
5 from his mouth, appears to be handing it to the female,
6 puts it to the ground.

7 When Officer Williamson comes down and
8 confronts the defendant, the defendant first disavows the
9 napkin then he says it's his trash. And the officer when
10 he says "You really shouldn't keep trash on the ground"
11 it was only then that the defendant picked it up and
12 tried to hold onto it, and it was at that time the
13 officer asked to see what was in the napkin. He opened
14 it and found the crack cocaine.

15 Throughout the memorandum, your Honor, probable
16 cause is the standard that we have to meet in this case.
17 You had an expert officer who had done hundreds of
18 arrests of crack cocaine and knew it --

19 THE COURT: What did he say, other than the
20 obvious? He said that crack dealers will sometimes keep
21 it in their mouth?

22 MS. HICKMAN: Keep it in the mouth for storage
23 for distribution, and they would keep a small amount on
24 their person just for the situation if they get stopped

1 they can swallow the drugs on them. The defendant made
2 no indicia of trying to act as if it was personal items
3 as argued by the defense. If the drugs are for him, if
4 the reason is, it's for personal use, why does he place
5 them away from him and onto the ground? What didn't he
6 place it into his pocket?

7 THE COURT: Mr. Santisi, if he has it in his
8 mouth doesn't that suggest something?

9 MR. SANTISI: Judge, I think the court can take
10 judicial notice that any person who has contraband,
11 including many small-time users, will place drugs in
12 their mouth especially when there's a security guard or a
13 police officer afoot. The bare statement that drug
14 dealers hide drugs in their mouth is like saying that my
15 client is guilty of the Lindbergh baby kidnapping. It
16 just doesn't make any sense and it strains reality.

17 THE COURT: You have to be careful, watch out.
18 There might be some indictments coming from that.

19 MR. SANTISI: I mean that's what you're really
20 looking at, judge. The statement by the officer --

21 THE COURT: No, I'm not. They're laying down
22 three of four salient facts. If cocaine were found on
23 his person, if it were found in his wallet, if it were
24 found in his sock, if it were found in his pocket, that's

1 different than being found in his mouth. What useful
2 purpose is having it in one's mouth? To use it?

3 MR. SANTISI: To hide it; simply to hide it.

4 THE DEFENDANT: Your Honor, may I address the
5 court, please?

6 THE COURT: No.

7 Go talk to your client; see if he has to say
8 anything.

9 MS. HICKMAN: Commonwealth would also point out
10 that the defendant had \$320 on him at the time of arrest.

11 MR. SANTISI: Judge may I approach sidebar very
12 briefly, please?

13 THE COURT: Yes.

14

15 [Whereupon, the following discussion occurred at sidebar:]

16 MR. SANTISI: He doesn't want me to work his
17 case anymore.

18 THE COURT: You have to file a motion and we
19 can do it. I'm going to take this matter under
20 advisement and I'll read the memoranda. Like any other
21 case, if he wants you to be discharged, if you want to
22 withdraw, you file it; I'm not going to do it now.

23 MR. SANTISI: All right. Thank you.

24 [Whereupon, the discussion at side bar was concluded.]

1 THE COURT: All right. I'm taking this matter
2 under advisement. Mr. Raines if you have any motions
3 concerning representation it can be filed. If you don't
4 understand how to file them I'm sure that Mr. Santisi
5 will advise you.

6 THE DEFENDANT: Your Honor, I've already filed
7 it.

8 THE COURT: Excuse me?

9 THE DEFENDANT: I've already filed it to the
10 court.

11 THE COURT: All right, but I'm not going take
12 it right now. I'm sorry. The only thing I had on the
13 docket today was this matter and that's all that I'm
14 resolving.

15 THE DEFENDANT: Okay. But, see, I filed --

16 THE COURT: Just a second. What is the next
17 scheduled event for this?

18 MS. HICKMAN: At this point, it would be marked
19 up either for a motion to suppress or for trial
20 assignment.

21 THE COURT: So why don't we do it for a status,
22 re: counsel, as well as -- well, your argument is that
23 only so much of the indictment that complains of
24 distribution should be dismissed. You're not contesting

1 that simple possession remains, is that fair?

2 MR. SANTISI: Yes, judge. At this point
3 though, right now, given the conversation that I just had
4 with my client, I'm not in a position really to address
5 the court at this point.

6 THE COURT: No, I think you did. You already
7 told me that you're not asking me to outright dismiss,
8 you're asking me to reduce.

9 MR. SANTISI: That's correct.

10 THE COURT: All right. And I'm going to take
11 that under advisement. The reason I asked you is because
12 if I allow the motion there's still a case pending, and
13 that's all I'm suggesting to you.

14 MR. SANTISI: That's correct.

15 THE COURT: So no matter what I do with this
16 motion there will be at least a possession offense
17 remaining.

18 MS. HICKMAN: And a second offense.

19 THE COURT: Therefore something has to be done
20 with it. So if there's a representational issue, mark it
21 up for a hearing in early November on that very issue and
22 status.

23 MR. SANTISI: Request, judge, November 5th for
24 status.

1 THE COURT: That's fine.

2 MR. SANTISI: I think Mr. Raines probably is
3 going to request to be brought in at that time as well

4 THE COURT: Yes.

5 THE COURT: No, I'm going to have him on the
6 jail list for that.

7 THE CLERK: The matter is continued until
8 November 5th. The motion is taken under advisement;
9 hearing re: counsel on November 5th; jail list. That's
10 by order of the court.

11 [Whereupon, the matter was adjourned.]

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CERTIFICATE

I, Richard A. LeRoux, Court Reporter, hereby certify that the foregoing transcript, pages 1 through 13, inclusive, is a true and accurate transcription of my verbatim recording to the best of my knowledge, skill and ability.

A handwritten signature in cursive script, appearing to read "Richard A. LeRoux", is written over a horizontal dashed line.

Richard A. LeRoux, Court Reporter

March 27, 2005

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Criminal Docket

SUCR2004-10100
Commonwealth v Raines, Albert

File Date	02/18/2004	Status	Active (actv)
Status Date	01/21/2005	Session	1 - Criminal 1 Ctrm 704
Jury Trial	Unknown	Origin	I - Indictment
Lead Case			

Arraignment	02/23/2004	Track	I - Inventory	Final PTC	05/23/2004
Disp. Deadline	02/22/2005	Deadline Status	Deadline active since return date	Status Date	02/23/2004
Pro Se Deft	No	Custody Status	Suffolk County Jail (Nashua Street)	Start Date	02/18/2004
Weapon		Substance	Class B	Prior Record	Unknown

OFFENSES

Num	Offense	Code	Status	Status Date
1	01/22/2004	94C/32A/H	Plea of not guilty	02/23/2004
	DRUG, POSSESS TO DISTRIB CLASS B, SUBSQ. c94C s32A(b)			
2	01/22/2004	94C/32J	Plea of not guilty	02/23/2004
	DRUG VIOLATION NEAR SCHOOL/PARK c94C s32J			

PARTIES

Plaintiff	District Atty's Office 567226
Commonwealth	Jennifer J Hickman
Gender: Unknown	Suffolk County District Atty's Office
Active 02/18/2004	1 Bulfinch Place
	3rd floor
	Boston, MA 02114
	Phone: 617-619-4000
	Fax: 617-619-4009
	Active 02/18/2004 Notify

Defendant	Private Counsel 441548
Albert Raines	Frank J Santisi
Homeless	727 High Street
DOB: 05/04/1949	Suite 202
Gender: Male	Westwood, MA 02090
Active 02/18/2004	Phone: 781-326-9222
	Fax: 781-326-9211
	Withdrawn 11/05/2004

Private Counsel 075840
Bruce W Carroll
61-63 Chatham Street
6th Floor
Boston, MA 02109
Phone: 617-720-1413
Fax: 617-227-4767
Inactive 04/19/2005

SUCR2004-10100
Commonwealth v Raines, Albert

Private Counsel 071440

John R Campbell
 101 Tremont Street
 Suite 416
 Boston, MA 02108
 Phone: 617-482-8882
 Fax: 617-338-1345
 Withdrawn 05/31/2005

Private Counsel 481190

Andrew Stockwell-Alpert
 11 Beacon Street
 Suite 1210
 Boston, MA 02108
 Phone: 617-720-4244
 Fax: 617-275-8000
 Active 05/31/2005 Notify

ENTRIES

Date	Paper	Text
02/18/2004	1.0	Indictment returned
02/18/2004	2.0	Motion by Commonwealth for arrest warrant to issue; filed & allowed ; Lauriat, J.
02/18/2004		Warrant on indictment issued
02/18/2004		Warrant was entered onto the Warrant Management System February 18, 2004
02/23/2004		Defendant brought into court. Warrant recalled.
02/23/2004		Appointment of Counsel Frank J Santisi NAC sent (2/27/04)
02/23/2004		Deft arraigned before Court
02/23/2004		Deft waives reading of indictment
02/23/2004		RE Offense 1:Plea of not guilty
02/23/2004		RE Offense 2:Plea of not guilty
02/23/2004		Deft notified of right to request drug exam
02/23/2004	3.0	Commonwealth files notice of discovery.
02/23/2004		Bail set: \$25,000.00 Surety or \$2,500.00 Cash without prejudice. Bail warning read. Mittimus issued. Vaughan, Mag - J. Tynes for J. Hickman, ADA - ERD - F. Santisi, Attorney
02/23/2004		Warrant canceled on the Warrant Management System February 23, 2004
03/29/2004		Defendant not present
03/29/2004	4.0	Pre-trial conference report filed
03/29/2004	5.0	Commonwealth files notice of discovery I. Wilson, Mag - J. Hickman, ADA - ERD - F. Santisi, Attorney
04/07/2004		Defendant on video from Nashua Street Jail. Defendant's oral motion for reduction of bail, after hearing, denied. Walker, J. - J. Hickman, ADA - M. McDonald, Court Reporter - F. Santisi, Attorney.
05/21/2004		Defendant not present.
05/21/2004		Continued until June 16, 2004 for Filing of Motion to Dismiss by agreement. Wilson, MAG - J. Hickman, ADA - ERD - F. Santisi, Attorney.

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Criminal Docket

SUCR2004-10100
Commonwealth v Raines, Albert

Date	Paper	Text
06/04/2004	6.0	Deft files pro se: motion for writ of habeas corpus.
06/04/2004	7.0	Deft files pro se: motion to dismiss.
06/04/2004	8.0	Deft files pro se: motion for leave to proceed pro se:
06/04/2004	9.0	Deft files motion for private investigation.
06/16/2004		Defendant not present.
06/16/2004		Continued until July 13, 2004 for Filing of Motion to Dismiss and Motion to Suppress by agreement. Wilson, MAG - ERD - F. Santisi, Attorney
06/25/2004	10.0	Deft files pro se supplement to McCarthy motion
07/13/2004		Defendant not present. Continued to 8/18/04 re: Submission of Motion to Suppress. Wilson, Mag - J. Hickman, ADA - ERD - F. Santisi, Attorney
08/18/2004		Defendant not present.
08/18/2004	11.0	Deft files motion to dismiss with affidavit and memorandum . Vaughan, MAG - J. Hickman, ADA - F. Santisi, Atty - ERD
08/26/2004	12.0	Defendant's motion for appointment of substiute counsel and/or leave to allow Atty. Frank Santisi to withdraw from further representation of deft., filed.
09/22/2004		Defendant not present. Continued to 9/27/04 re: Motion to Dismiss (McCarthy).
09/22/2004	13.0	Commonwealth files opposition to defendant's motion to dismiss and supporting memorandum of law. Muse, J. - J. Hickman, ADA - A. McDonald, Court Reporter - F. Santisi, Attorney
09/27/2004		Defendant not present. Continued to 10/6/04 re: Motion to Dismiss. (McCarthy, J.). (Counsel Unavailable on Trial). Muse, J. - J. Hickman, ADA - F. LeRoux, Court Reporter - F. Santisi, Attorney
10/06/2004		Defendant not present in court, continued until October 14, 2004 by agreement re: motion to dismiss. (Jail list) Muse, J - J. Hickman, ADA - P. Napolitano, Court Reporter
10/14/2004		Defendant brought into court. Hearing re: motion to dismiss - Paper #7.
10/14/2004		Hearing on (P#7) motion to dismiss held, matter taken under advisement.
10/14/2004		Continued until November 05, 2004 re: counsel and status re: findings of Muse, J. (Jail list) Muse, J - J. Hickman, ADA - R. LeRoux, Court Reporter - F. Santisi, Attorney
10/14/2004		Motion (P#11) denied as endorsed. Muse, J.
10/21/2004	14.0	Ex-Parte Motion to Withdraw as Counsel, filed by Frank J Santisi
11/05/2004		Defendant brought into court. Continued to 12/9/04 re: Status.
11/05/2004		Motion (P#14) allowed
11/05/2004		Appointment of Counsel Bruce W Carroll, pursuant to Rule 53. Ball, J. - P. Napolitano, Court Reporter - B. Carroll, Attorney
11/08/2004		Nac sent 11/08/2004
12/09/2004		Defendant not present in court, continued until January 05, 2005 for Status at request of defendant. Defense Counsel on trial in Suffolk Superior Court. Wilson, MAG - C. Bartoloni for J. Hickman, ADA - ERD.

SUCR2004-10100
Commonwealth v Raines, Albert

Date	Paper	Text
01/05/2005		Defendant not present in court, continued until January 14, 2005 for Status re: Counsel and Pro-Se 211 3 Petition by order of the Court. Wilson, MAG - J. Hickman, ADA - ERd.
01/11/2005	15.0	Deft files pro-se: mtoion to remove counsel and for appointment of new counsel with affidavit in support of.
01/14/2005		Defendant brought into court. hearing re: counsel. After hearing Motion (P#15) allowed Gants, J
01/14/2005		Appointment of Counsel John R Campbell, pursuant to Rule 53
01/14/2005		Continued to 2/7/05 by order of the court. re: status. Gants, J - J. Hickman, ADA - J. Campbell, B. Carroll, Atty - C. bartholomew, CR
01/21/2005	16.0	Notice of Entry of appeal received from the Supreme Judicial Court stating Judgement : Denying relief under C.211 S.3 without a hearing. Sosman, J.
02/07/2005		Defendant present in court, continued until February 17, 2005 for status hearing at the request of deft. Wilson, MAG - C. Bartoloni for J. Hickman, ADAs - ERD - J. Campbell, Attlorney
02/17/2005		Defendant not present in court, continued until March 30, 2005 for Filing of Motion to Supprss at request of defendant. Wilson, MAG - J. Hickman, ADA - ERD - J. Campbell, Attorney
03/22/2005	17.0	Motion for Stenograph Transcript and Funds.
03/22/2005		Motion (P#17) allowed \$3.00 per page (Gary D Wilson, Magistrate) - ERD
03/30/2005		Defendant not present.
03/30/2005		Continued until April 13, 2005 for filing a motion to suppress. Wilson, MAG. - J. Hickman, ADA - ERD - J. Campbell, Attorney.
04/13/2005		Defendant not present in court, continued until May 10, 2005 by agreement to schedule motion to suppress.
04/13/2005	18.0	Deft files motion to suppress with affidavit in support thereof.
04/13/2005	19.0	Deft files identity percipient witness. Wilson, Mag - J. Hickman, ADA - ERD - J. Miller, Attorney
04/14/2005		Per order, Hinkle, RAJ, the within case is assigned for trial in Drug/Gun session in July/August and is ordered advanced for trial assignment conference on 05/26/05 in Criminal I, Room 704. Locke, J.
05/10/2005		Defendant not present, event cancelled as case is already scheduled in the justice session on 5/26/05. Wilson, MAG
05/11/2005	20.0	Deft files Pro-se Motion to remove counsel and proceed pro-se.
05/11/2005	21.0	Deft files Pro-Se Motion to produce material evidence or alternatively, motion to dismiss due to lost or destroyed evidence with affidavit and memorandum of law in support of.
05/11/2005	22.0	Deft files Pro-Se Motion to Dismiss (Rule 36) and constitutional standard (Speedy Trial) with affidavit in support of.
05/11/2005	23.0	Deft files Pro-SE Motion to identify informant.
05/11/2005	24.0	Deft files Pro-Se Motion to produce reports.
05/11/2005	25.0	Deft files Pro-SE Motion for notice of expert testimony.
05/11/2005	26.0	Deft files Pro-Se Motion of defendant to be furnished with statements of promises, rewards or inducements.

Commonwealth of Massachusetts

SUFFOLK SUPERIOR COURT

Case Summary

Criminal Docket

SUCR2004-10100

Commonwealth v Raines, Albert

Date	Paper	Text
05/11/2005	27.0	Deft files Pro-Se Motion for disclosure of acts of defendant allegedly relevant to the charges.
05/26/2005		Defendant brought into court. Hearing re: counsel.
05/26/2005		After hearing Paper #20 NOT Withdrawn but deemed WAIVED by order of court.
05/26/2005		Withdrawal of appearance filed by John R Campbell
05/26/2005		Appointment of Counsel Andrew Stockwell-Alpert, pursuant to Rule 53
05/26/2005		Continued to 6/22/05 request of defendant status re: discovery.
		Commonwealth objecting thereto. Locke, J - J. Hickman, ADA - C.
		Johnson, CR - A. Stockwell-Alpert, Atty

EVENTS

Date	Session	Event	Result
02/23/2004	Magistrate Ctrm 705	Arraignment	Event held as scheduled
03/29/2004	Magistrate Ctrm 705	Conference: Pre-Trial	Event held as scheduled
04/07/2004	Criminal 1 Ctrm 704	Bail: Review	Event held as scheduled
		at 2:00PM Video bail. Jail List.	
05/21/2004	Magistrate Ctrm 705	Hearing: Non-eviden-Discovery	Event held as scheduled
		Continued by agreement. Motions to be filed by 5/14/04.	
06/16/2004	Magistrate Ctrm 705	Status: Filing deadline	Event held as scheduled
		continuance by agreement re: Filing of Motion to Dismiss.	
07/13/2004	Magistrate Ctrm 705	Status: Filing deadline	Event held as scheduled
		continuance by agreement re: Filing of Motion to Dismiss and Motion to Suppress.	
08/18/2004	Magistrate Ctrm 705	Status: Motion review/assignment	Event held as scheduled
		Continued by agreement. Re: Submission of Motion to Suppress.	
09/22/2004	Criminal 1 Ctrm 704	Hearing: Evidentiary-dismiss	Event held as scheduled
		by agreement. Hearing re: motion to dismiss. (McCarthy)	
09/27/2004	Criminal 1 Ctrm 704	Hearing: Evidentiary-dismiss	Event not held--joint request
		Continued by agreement. Re: re: Motion to Dismiss (McCarthy). (Jail List).	
10/06/2004	Criminal 1 Ctrm 704	Hearing: Evidentiary-dismiss	Defense attorney did not appear
		Continued by agreement. Re: Motion to Dismiss. (McCarthy, J.).	
10/14/2004	Criminal 1 Ctrm 704	Hearing: Evidentiary-dismiss	Event held--under advisement
		Continuance by agreement	
11/05/2004	Criminal 1 Ctrm 704	Hearing: Appt Counsel	Event held as scheduled
		Continuance by order of Court re: counsel and findings by Muse, J.	
12/09/2004	Magistrate Ctrm 705	Conference: Status Review	Event not held--req of Defendant
		Continued by agreement.	
01/05/2005	Magistrate Ctrm 705	Conference: Status Review	Event held as scheduled
		continued at request of defendant	
01/14/2005	Criminal 1 Ctrm 704	Conference: Status Review	Event rescheduled by court order
		continued by order of the Court re: Counsel and Pro-Se 211 3	
02/07/2005	Magistrate Ctrm 705	Petition. Notice sent to Atty. 1/5/05	
		Conference: Status Review	Event not held--joint request
		by order of the court.	
02/17/2005	Magistrate Ctrm 705	Conference: Status Review	Event held as scheduled
		Continuance by agreement.	
03/30/2005	Magistrate Ctrm 705	Status: Motion review/assignment	Event not held--req of Defendant
		continued at request of defendant re: Filing of Motion to Suppress.	
04/13/2005	Magistrate Ctrm 705	Status: Motion review/assignment	Event held as scheduled
		continued by request of defendant Re: filing a motion to suppress.	

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Date	Session	Event	Result
05/10/2005	Magistrate Ctrm 705	Status: Motion review/assignment	Event canceled not re-scheduled
		Continued by agreement. Re: Scheduling of Motion to Suppress.	
05/26/2005	Criminal 1 Ctrm 704	Conference: Trial Assignment	Event held as scheduled
		COUNSEL REQUIRED TO APPEAR-SEE NOTICE OF SPECIAL ASSIGNMENT	
06/22/2005	Criminal 1 Ctrm 704	Conference: Status Review	
		by request of defendant. Status re: discovery. Commonwealth objecting thereto.	